

# Can voluntary agreements replace regulations?

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A new exotic species has made its way into the Great Lakes. It clings largely to the Canadian side, proliferating around industrial sites. Like other noxious newcomers, it threatens to aggressively colonize the "gaps" in the Great Lake's ravaged ecosystem, taking away resources that other forms of life need to survive.

The newcomer, however, is not a mussel or some omnivorous fish—it's the "voluntary pollution prevention agreement" (VPPA). This virulent species is currently preying on the Canadian regulatory system, which is already under threat from the forces of international trade and deficit reduction.

VPPAs are nonbinding agreements between government and regulated industries purporting to set out a process by which such industries will reduce toxic emissions. The federal and Ontario governments recently signed four agreements that will have an impact on the Great Lakes region:

- The Motor Vehicle Manufacturers' Agreement
- The Canadian Chemical Producers' Agreement
- The Metal Finishers' Agreement
- The Automotive Parts Manufacturers' Agreement

These agreements are a retreat in the effort to eliminate toxins in the Great Lakes because they do not require *any* reduction in the use or emission of toxic chemicals. Instead, they allow industry, with the support of government, to set up plans that permit them, when it is economically feasible and convenient, to make great or small modifications to the way they do things that may or may not result in benefits to the environment.

When they sign these documents, all government and industry agree to do is create task forces made up of government and industry representatives. These

task forces set up frameworks for information-sharing among members of industry associations, and create generalized plans for reductions in the use and emission of toxic substances. Member companies of the industry associations signing agreements take inventories of the substances on their premises and propose their own plans for toxics use reduction, recycling, reuse, and so on. The agreements do not require that these shop-by-shop strategies be verified, monitored, or, in fact, even implemented.

Primary problems with Canadian VPPAs include:

- The agreements are negotiated behind closed doors
- There are no other interests at the table but the industry association and government
- Not one of the agreements mentioned above covers an entire industrial sector. One, the metal finishers agreement, applies to only five out of literally hundreds of metal finishing shops in the Great Lakes Basin.

But why do Canadian regulators pursue voluntary agreements with such intensity when they cost so much and gain so little? It may be that they think that in VPPAs they have found the solution to a litany of familiar (and for the most part unproven) industry complaints about traditional regulations: that they make industry less competitive, stifle innovation, and take too long to make and amend. VPPAs sidestep all these problems, so the thinking appears to go, because they sidestep regulations.

But the agreements also appear to sidestep any real commitment to environmental protection, something Canadian governments seem to have forgotten in their VPPA strategy. Or, if they did not forget that VPPAs are supposed to protect the environment, then the governments have done something worse: they assumed that because "voluntary" agreements in other countries appear to

be working, then they will work in Canada, too. One would think, after the experience the Great Lakes Basin has had with nonindigenous species, that the governments would know better.

VPPAs are harmless enough in the jurisdictions of their origin, where they evolved in legislative frameworks that keep them in check. In Canada, however, where you can count the number of regulated substances on the fingers of two hands, there are no regulatory restrictions on the excesses of voluntarism.

In the United States, the list of targeted toxics in the 33/50 programme was drawn up by the Environmental Protection Agency. In Canada, industries get to draw up their own list of toxic substances. In the Netherlands, "voluntary" agreements are rigorously scrutinized by the parliament and the terms are attached to operating licences, legally binding with clear penalties for non-compliance. In Canada, industries sign these agreements and walk away with absolutely no obligation to do anything.

Now that VPPAs have been let loose in the Great Lakes, like loosestrife, lampreys, and zebra mussels, they may proliferate unimpeded, suck the life out of the existing regulatory framework, and become so hostile to a viable Great Lakes ecosystem that they will eventually have to be attacked at great cost, but only after there has been great damage.

The solution to this potential catastrophe is to get the VPPAs out of the ballast tanks — that is, out of the minds of Canadian regulators. Canada's regulators should pause in their pell mell rush to deregulate the nation, and for a moment think about the fragile nature and special character of the ecosystem it is their duty to protect. They should be mindful of the fact that industry is but a part of their constituency. Thomas Hobbes said, "Covenants without swords are but words." Without a regulatory backdrop, VPPAs are a prescription for ecological disaster.